

WEINER BRODSKY SIDMAN KIDER PC

1300 NINETEENTH STREET NW
FIFTH FLOOR
WASHINGTON DC 20036 1609
TEL 202 628 2000
FAX 202 628 2011

212229

October 14, 2004



BY HAND

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

ENTERED
Office of Proceedings

OCT 14 2004

Part of
Public Record

Re: ^{AB} Docket No. ~~85~~-391 (Sub-No. 10X), Red River Valley & Western Railroad
Company -- Abandonment -- In Foster and Wells Counties, North Dakota

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding are an original and 10 copies of the Verified Notice of Exemption of Red River Valley & Western Railroad Company, pursuant to 49 C.F.R. § 1152.50. Also enclosed is our check in the amount of \$2,800 to cover the filing fee for this proceeding. In addition, enclosed are original photographs of the bridges and grain elevators referred to in Section 3 of the Historic Report.

Please acknowledge receipt of this letter by date-stamping the enclosed acknowledgment copy and returning it to our messenger.

Very truly yours,

Rose-Michele Weinryb

Enclosures

FILED
OCT 14 2004
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
OCT 14 2004
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD



Docket No. AB-391 (Sub-No. 10X)

212229

RED RIVER VALLEY & WESTERN RAILROAD COMPANY
- ABANDONMENT EXEMPTION -
FOSTER AND WELLS COUNTIES, NORTH DAKOTA

VERIFIED NOTICE OF EXEMPTION

ENTERED
Office of Proceedings

OCT 14 2004

Part of
Public Record

FILED
OCT 14 2004
SURFACE
TRANSPORTATION BOARD

RED RIVER VALLEY & WESTERN
RAILROAD COMPANY

By its attorneys:

Rose-Michele Weinryb
Weiner Brodsky Sidman Kider PC
1300 19th Street, N.W.
Fifth Floor
Washington, D.C. 20036-1609
(202) 628-2000

Dated: October 14, 2004

FEE RECEIVED
OCT 14 2004
TRANSPORTATION BOARD

2. *Certification Required in 49 CFR § 1152.50(b).*

The required certification is provided as Exhibit B to this Notice.¹

3. *Information Required in 49 CFR §1152.22 (a)(1) - (4), (7) and (8), and e(4).*

(a)(1) *Name of Applicant.*

Red River Valley & Western Railroad Company

(a)(2) *Common Carrier Status.*

RRVW is a class III common carrier by railroad, subject to 49 U.S.C. Subtitle IV, chapter 105.

(a)(3) *Relief Sought.*

RRVW seeks exemption from the Board's regulations to abandon the Subject Line.

(a)(4) *Map of Subject Line.*

A map showing the location of the Subject Line is attached hereto as Exhibit A.

(a)(7) *Representative of Applicant.*

Rose-Michele Weinryb, Esq.
Weiner Brodsky Sidman Kider PC
1300 19th Street, NW
Fifth Floor
Washington, D.C. 20036-1609
(202) 628-2000

(a)(8) *Postal Service Zip Codes.*

The Subject Line runs through United States Postal ZIP Codes 58486, 58418 and 58421.

¹ RRVW has used the Subject Line to store cars for off-line shippers during the preceding two years. However, the Board has determined that "[i]t is well settled that use of a rail line to store rail cars for the convenience of off-line shippers or the railroad is not traffic originating or terminating on the line within the meaning of 49 CFR 1152.50(b)." See STB Docket No. AB-33 (Sub-No. 137X), *Union Pacific Railroad Company – Abandonment Exemption – In Ada County, ID*, served August, 6, 1999.

(e)(4) *Suitability for Public Purposes and Restrictions on Title.*

The right-of-way may be suitable for other public purposes, such as a snowmobile/ATV recreational trail.

Based on information in RRVW's possession, the line does contain federally granted rights-of-way. Any documentation in RRVW's possession will be made available promptly to those requesting it. RRVW has an exclusive easement from The Burlington Northern and Santa Fe Railway Company ("BNSF") to perform rail service over the Subject Line (subject to certain BNSF rights with respect to the real property). RRVW's easement will terminate after abandonment of the Subject Line and the cessation of railroad use thereof.

4. *Labor Protection.*

This class exemption does not relieve RRVW of its obligation to protect the interests of its employees. No employees will be adversely affected as a result of the abandonment; however, RRVW anticipates that the Board will impose the conditions set forth in *Oregon Short Line R. Co. – Abandonment – Goshen Branch*, 360 I.C.C. 91 (1979), for the benefit of any carrier employee who may be adversely affected by the proposed abandonment.

5. *Environmental and Historic Report.*

On July 29, 2004, RRVW sent a notice of proposed abandonment to appropriate federal and state agencies and county commissioners (the "Agencies"). A sample of the letter is attached hereto as Exhibit C. On September 14, 2004, RRVW sent its Environmental and Historic Report (the "Report") to the Agencies. A sample cover letter and the Report are attached hereto as Exhibit D. The Report included correspondence received from the Agencies through September 13, 2004. Subsequent to that date, RRVW received further correspondence as follows.

In a letter dated September 21, 2004, the North Dakota Department of Health (Environmental Health Section) stated: "[t]his department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods" and that "[w]ith respect to construction, [its] comments remain the same as those in [its] August 6, 2004 response...." See Exhibit E.

In a letter dated September 20, 2004, the Department of the Army, St. Paul District, Corps of Engineers, stated that it was forwarding the Report to the Omaha District of the Corps of Engineers, which "has jurisdiction for both civil

works and regulatory matters in the area of the proposed rail abandonment.”² See Exhibit E.

RRVW received a telephone conversation on September 23, 2004, from Julie Crew regarding the Report RRVW sent to the attention of Richard VanKlaveren at USAD, NRCS, NPRO, in Lincoln, Nebraska. Ms. Crew advised RRVW that this regional office was no longer open and that Mr. Merlin Bartz, in Washington DC, had assumed Mr. VanKaveren’s duties. Ms. Crew stated that she would forward the Report to Mr. Bartz. Accordingly, this Notice will be addressed to the attention of Mr. Bartz in Washington, DC rather than to Mr. VanKlaveren in Nebraska.

Prior to sending out the Report, RRVW had discussions with Mr. William May, Corps of Engineers, (701) 255-0015,³ regarding the abandonment of the Subject Line and related salvage activities. These discussions focused primarily on the circumstances under which a permit would be required in connection with the removal of the bridges on the Subject Line. In Section 9 of the Environmental Report, RRVW noted “[i]t is unclear whether any such permit requirement stems from section 404 of the Clean Water Act.” During a telephone conversation with Mr. May on September 30, 2004, Mr. May clarified that such a permit requirement did in fact stem from section 404 of the Clean Water Act. In addition to the removal of bridges, RRVW and Mr. May also discussed whether a permit would be required in connection with RRVW’s removal of the rail and other track material from the Subject Line. RRVW will continue to work with Mr. Mays to obtain any necessary permit in connection with the proposed abandonment.

On October 1, 2004, RRVW received a telephone call from Mr. David Dorfman from the Railroads for National Defense Program, (757) 599-1635. Mr. Dorfman advised RRVW that, from a defense perspective, the agency had no comments or concerns regarding the proposed abandonment.

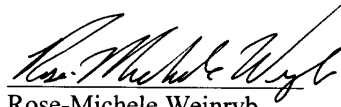
² Similarly, in its August 3, 2004, letter, attached to the Environmental Report, the St. Paul District stated that “[t]he referenced railroad is not in St. Paul District, and as such our District Engineer is not in the position to have an opinion regarding the abandonment.” In that letter, the St. Paul District said it was forwarding RRVW’s correspondence “to the Corps’ Omaha District, 106 S. 15th Street, Omaha, NE 68102-1618.” Accordingly, rather than send a copy of this Notice to the St. Paul District, we will send the Notice directly to the Omaha District. We note that both the Regulatory Branch of the Corps’ Omaha District (located at a different address) and the North Dakota Regulatory Office of the Corps of Engineers are also receiving this Notice.

³ In that telephone conversation, RRVW also learned that Mr. May was not located at the Omaha District of the Corps of Engineers, but at the North Dakota Regulatory Office of the Corps of Engineers.

6. *Notice Requirements.*

A Certification of Publication is attached as Exhibit F. A Certificate of Service regarding the July 29, 2004, notice of the proposed abandonment (a sample of which is attached as Exhibit C) is attached hereto as Exhibit G. A Certificate of Service regarding the September 14, 2004, Environmental and Historic Report is attached hereto as Exhibit H, and a Certificate of Service regarding this Verified Notice of Exemption is attached hereto as Exhibit I.

Respectfully submitted,



Rose-Michele Weinryb
Weiner Brodsky Sidman Kider PC
1300 19th Street, NW
Fifth Floor
Washington, D.C. 20036-1609
(202) 628-2000

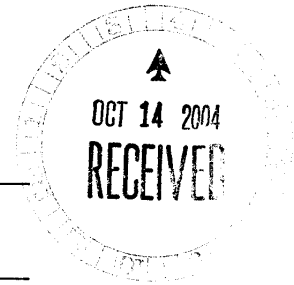
Attorneys for:

Red River Valley & Western
Railroad Company

Dated: October 14, 2004

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**



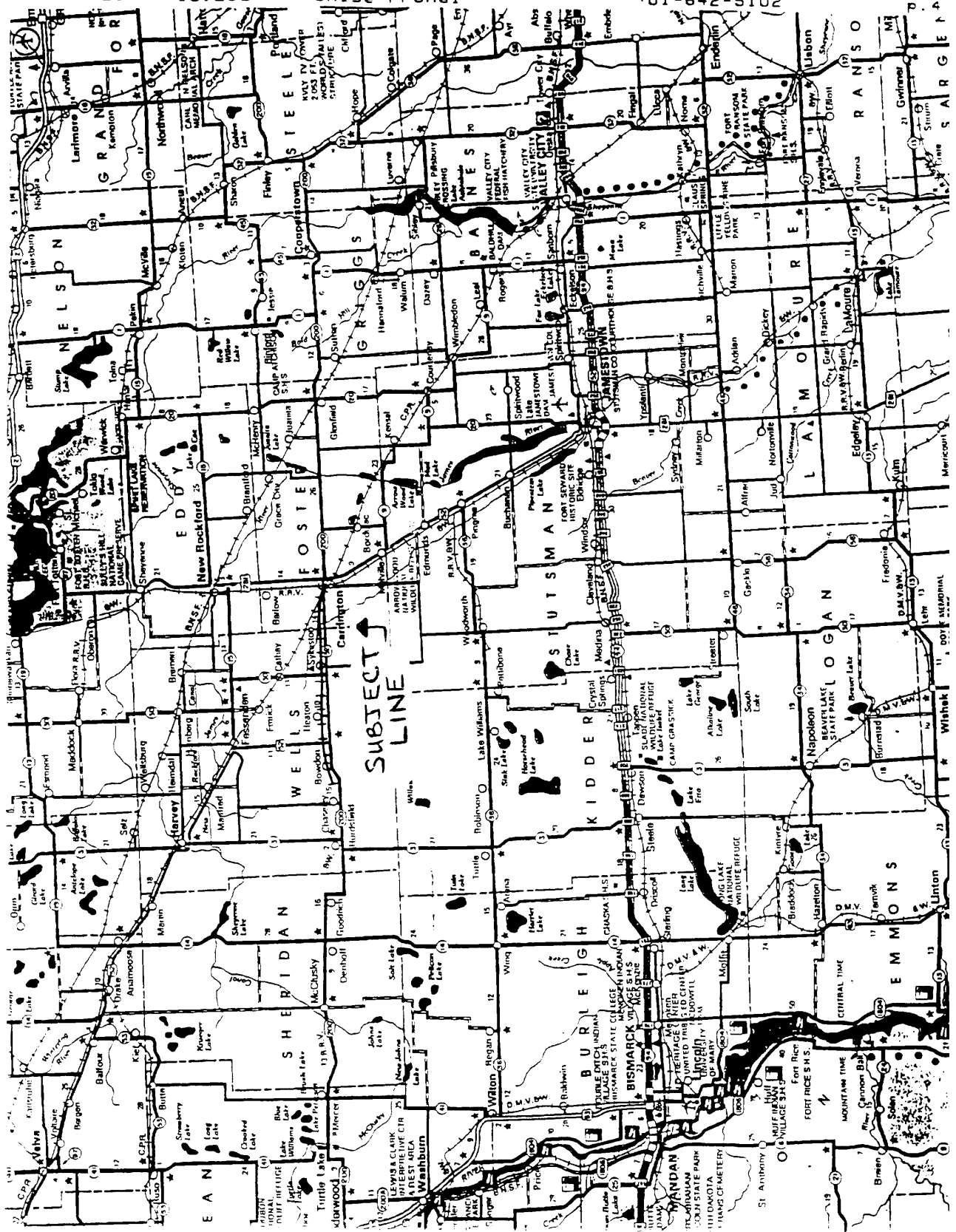
Docket No. AB-391 (Sub-No. 10X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
- ABANDONMENT EXEMPTION -
FOSTER AND WELLS COUNTIES, NORTH DAKOTA**

EXHIBIT A

MAP OF SUBJECT LINE

701-642-5102



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 10X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
– ABANDONMENT EXEMPTION –
FOSTER AND WELLS COUNTIES, NORTH DAKOTA**

EXHIBIT B

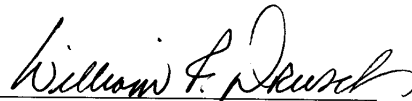
CERTIFICATION REQUIRED BY 49 CFR § 1152.50(b)

CERTIFICATION REQUIRED BY 49 CFR § 1152.50(b)

In accordance with 49 CFR § 1152.50(b), I, William F. Drusch, President of Red River Valley & Western Railroad Company, hereby certify that, with respect to the rail line subject to this Verified Notice of Exemption in Docket No. AB-391 (Sub-No. 10X):

(1) no local traffic has moved over the line for at least two years prior to the date hereof;

(2) overhead traffic, if any, can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of the complainant within the two-year period preceding the date hereof. The foregoing certification is made on behalf of Red River Valley & Western Railroad Company by the undersigned after due investigation of the matters herein certified and is based upon the knowledge, information and belief of the undersigned.


William F. Drusch

Dated: October 14, 2004

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 10X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
– ABANDONMENT EXEMPTION –
FOSTR AND WELLS COUNTIES, NORTH DAKOTA**

EXHIBIT C

SAMPLE LETTER OF PROPOSED ABANDONMENT

WEINER BRODSKY SIDMAN KIDER PC

BRUCE E. ALEXANDER*
RICHARD J. ANDREANO, JR.
SANDRA L. BRICKEL
JAMES A. BRODSKY
DONALD C. BROWN, JR.
JO A. DeROCHE
TROY W. GARRIS
CYNTHIA L. GILMAN
DON J. HALPERN
MITCHEL H. KIDER
THOMAS LAWRENCE III
ALDYS A. LONDON
JAMES M. MILANO

SUZANNE DE ARMOND MUCCHETTI
HAYDN J. RICHARDS, JR.*
LEAH SCHMULEWITZ GETLAN
R. COLGATE SELDEN
MARK H. SIDMAN
JOHN D. SOCKNAT
DAVID M. SOUDERS
CYNTHIA G. SWANN
MICHAEL S. WALDRON
HARVEY E. WEINER
ROSE-MICHELE WEINRYB
JUSTIN P. ZIMMER*
*NOT ADMITTED IN D.C.

1300 NINETEENTH STREET NW
FIFTH FLOOR
WASHINGTON DC 20036 1609
TEL 202 628 2000
FAX 202 628 2011

July 29, 2004

BY FIRST-CLASS MAIL

National Park Service
Midwest Region
Attn: Regional Director
601 River Front Drive
Omaha, NE 68102-4226

Re: Red River Valley & Western Railroad Company
--Abandonment in Foster and Wells Counties, North Dakota --
Docket No. AB 391 (Sub-No. 10X)

Dear Sir or Madam:

On or after September 15, 2004, Red River Valley & Western Railroad Company ("RRVW") expects to file with the Surface Transportation Board (the "Board") a notice of exemption ("Notice") pursuant to 49 C.F.R. § 1152.50 from the prior approval requirements of 49 U.S.C. § 10903, the section of the ICC Termination Act of 1995 that regulates abandonment of rail lines. This notice concerns the abandonment of approximately 27.76 miles of track in North Dakota from approximately railroad milepost 1.4, in or near Carrington, in Foster County, to the end of the track at approximately railroad milepost 29.16, in or near Bowdon, in Wells County (the "Subject Line"). The Subject Line runs through United States Postal Zip Codes 58486, 58418 and 58421.

No shipper located on the Subject Line has either shipped or received any carloads by rail for more than two years. Furthermore, no overhead traffic currently travels over the Subject Line.

A map identifying the location of the Subject Line is attached hereto as Exhibit A. The proceeding will be docketed as No. AB-391 (Sub-No. 10X). Based on information in RRVW's possession, the Subject Line does contain federally granted rights-of-way. Any documentation in RRVW's possession will be made available promptly to those requesting it.

July 29, 2004

Pursuant to 49 C.F.R. §§ 1105.7 and 1105.8, along with its Notice, RRVW must file with the Board an environmental and historic report (the "Report") assessing the abandonment. The environmental portion of the Report must address, among other things, the issues listed below, which may be of interest to your agency:

- The effect on any endangered or threatened species or critical habitats.
- The effect on any wildlife sanctuaries or national or state parks or forests.
- Whether any designated wetlands, 100-year flood plains or designated coastal zone areas will be affected.

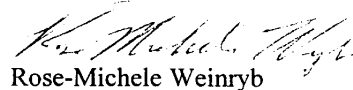
The historic portion of the Report must address, among other things, the following issues:

- Whether any structures located on the Subject Line, or the area on which the line is located, should be listed on the National Register of Historic Places.
- Whether any environmental condition exists that could impede archeological activities.

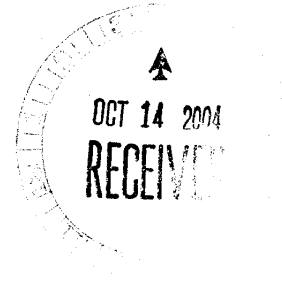
The purpose of this letter is to alert you to the proposed abandonment and to request that you furnish our firm with any information or comments, or direct any questions to us that you may have regarding the abandonment. If it is your opinion that the above-described abandonment does not raise any concerns from the standpoint of your agency, please furnish our firm with a letter to that effect. A copy of your letter will be attached to RRVW's Report to ensure that the Board is fully apprised of your position. We would appreciate a response to this letter as soon as possible so that your views can be incorporated into the Report, which will be sent to you on or about August 26, 2004.

Thank you for your attention to this matter.

Very truly yours,


Rose-Michele Weinryb

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



Docket No. AB-391 (Sub-No. 10X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
– ABANDONMENT EXEMPTION –
FOSTER AND WELLS COUNTIES, NORTH DAKOTA**

EXHIBIT D

**SAMPLE COVER LETTER AND
THE ENVIRONMENTAL AND HISTORIC REPORT**

WEINER BRODSKY SIDMAN KIDER PC

BRUCE E. ALEXANDER*
RICHARD J. ANDREANO, JR.
SANDRA L. BRICKEL
JAMES A. BRODSKY
DONALD C. BROWN, JR.
JO A. D'ROCHE
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ROSE-MICHELE WEINRYB
JUSTIN P. ZIMMER*
* NOT ADMITTED IN D.C.

1300 NINETEENTH STREET NW
FIFTH FLOOR
WASHINGTON DC 20036 1609
TEL 202 628 2000
FAX 202 628 2011

September 14, 2004

BY FIRST-CLASS MAIL

National Park Service
Midwest Region
Attn: Regional Director
601 River Front Drive
Omaha, NE 68102-4226

Re: Docket No. AB-391 (Sub-No. 10X), Red River Valley & Western Railroad
Company – Abandonment – In Foster and Wells Counties, North Dakota

Dear Sir or Madam:

On or after October 4, 2004, Red River Valley & Western Railroad Company ("RRVW") expects to be filing with the Surface Transportation Board (the "Board") a verified notice of exemption seeking authority to abandon approximately 27.76 miles of rail line located in Foster and Wells Counties, North Dakota (the "Subject Line"). The Subject Line runs from approximately milepost 1.4 (in or near Carrington, ND) to the end of the line at approximately milepost 29.16 (in or near Bowdon, ND). The Subject Line runs through United States Postal ZIP Codes 58486, 58418 and 58421. Attached is an Environmental and Historic Report describing the proposed action and any expected environmental and historic effects, which includes a map of the affected area.

RRVW is providing this report so that you may review the information that will form the basis for the Board's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis ("SEA"), Surface Transportation Board, 1925 K Street, N.W., Washington, D.C. 20423-0001, telephone (202) 565-1545 and refer to Docket No. AB 391 (Sub-No. 10X). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to RRVW's representative) would be appreciated within three weeks.

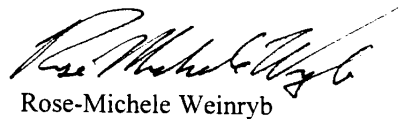
WEINER BRODSKY SIDMAN KIDER PC

Page Two

September 14, 2004

Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact RRVW's representative directly. RRVW's representative in this matter is Rose-Michele Weinryb who may be contacted by telephone at (202) 628-2000 or by mail at Weiner Brodsky Sidman Kider PC, 1300 19th Street, N.W., Fifth Floor, Washington, D.C. 20036.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rose-Michele Weinryb", with a long, sweeping horizontal line extending to the right.

Rose-Michele Weinryb

Enclosure

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RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

Red River Valley & Western Railroad Company (the "Company" or "RRVW") will submit a filing with the Surface Transportation Board ("Board"), seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon rail service over approximately 27.76 miles of a branch rail line located in Foster and Wells Counties, North Dakota (the "Subject Line"). The Subject Line runs from approximately milepost 1.4 (in or near Carrington, ND) to the end of the line at approximately milepost 29.16 (in or near Bowdon, ND). The Subject Line runs through U.S. Postal Zip Codes 58486, 58418 and 58421. A map of the Subject Line is attached to this Environmental and Historic Report (the "Report") as Attachment 1. This Report has been prepared pursuant to 49 CFR §§ 1105.7 and 1105.8.

Pursuant to 49 CFR §§ 1105.7(b) and 1105.8(c), the Company notified the federal and state agencies and county commissioners listed in the service list at the end of this Report (the "Agencies"), by letter dated July 29, 2004, about the proposed abandonment of the Subject Line. Attached are written responses the Company has received from the Agencies. All representations made herein are to the best of the Company's knowledge and are based upon the written responses and/or oral conversations with the Agencies (the "Responses"), and information otherwise readily available in the Company's possession on the date of this Report. The Company reserves its right to challenge the applicability of any law, rule or regulation on any basis.

ENVIRONMENTAL REPORT

1. Proposed Action and Alternatives. (§ 1105.7(e)(1))

The Company seeks authority to abandon service over the Subject Line. No shipper has moved any traffic over the Subject Line in over two years. The Subject Line is a stub-ended branch line and consequently there is no overhead traffic. The commodities most recently transported were barley, wheat and durum. It is intended that permanent cessation of common carrier rail service over the Subject Line will result in the elimination of a number of grade crossings (up to 39 in all) and the associated risks of automobile-train and pedestrian-train accidents.

In addition to ceasing service, the Company plans to hire a contractor to remove the rail and other track materials from the Subject Line and perform related cleanup. The Company intends to recycle materials, where possible, by using them on other parts of its system. The Company anticipates that the contractor will purchase or appropriately dispose of the unusable materials. It is intended that the contractor will remove the two bridges on the line, but that any culverts will be left in place.

The Foster County Auditor's Office has advised RRVW that "[i]t is our opinion that the above-described abandonment does not raise any concerns for the residents of Carrington or rural Foster County." *See* Attachment 2. The North Dakota Public Service Commission advised RRVW that the Agency "does not issue letters of agreement or letters expressing no concern regarding railroad abandonments" and that "[a]ny comments that the Commission may have concerning the proposed abandonment will be filed with the STB." *See* Attachment 3.

2. *Transportation System.* (§ 1105.7(e)(2))

Because there has been no traffic over the Subject Line in over two years, existing regional or local transportation systems or patterns would not be adversely affected by the proposed abandonment.

3. *Land Use.* (§ 1105.7(e)(3))

The Responses the Company has received from the Agencies indicate that that the abandonment is consistent with existing land use plans, and would not have an adverse affect on prime agricultural lands. RRVW has received no Responses from an Agency to the contrary.

The U.S. Department of Agriculture's Natural Resources Conservation Service ("NRCS") advised RRVW that "[t]he proposed abandonment will not convert important farmland" and "should have no significant impact on existing soil and water conservation practices in the area." In addition, this Agency provided the following comments: (i) "[t]o the extent possible, all natural drainage patterns should be maintained" and that "[l]and use that may be affected during abandonment should be returned to the original land use cover," and (ii) "[i]f the railroad road bed is removed, spoil should not be placed in wetlands or natural watercourses" and that "[e]rosion control measures should be in effect during all periods of road bed removal activities." See Attachment 4. To the extent that, in connection with the removal of the two bridges on the line, certain materials are placed in wetland areas, the Company will work with the Omaha Office of the Corps of Engineers to obtain any necessary permit. See Section 9 of the Environmental Report. With respect to NRCS's other comments, RRVW intends to salvage the Subject Line in a manner consistent with the Agency's comments.

The Department of Agriculture in Bismarck, ND advised RRVW that it has "determined that the abandonment will not have an impact on programs or responsibilities of the North

Dakota Department of Agriculture” and that the Agency has “no objection to the abandonment of this section of rail line.” *See* Attachment 5.

The U.S. Environmental Protection Agency, Region 8, has advised the Company that it is “currently aware of no issues pertaining to wetlands, 100-year flood plains or designated coastal zone areas which will be adversely affected.” *See* Attachment 6.

The Department of the Army, Omaha District, Corps of Engineers (the “Corps-Omaha”)¹ has informed the Company, by letter dated August 9, 2004, that “it is unlikely that any federal rights-of-way would have been issued by the Corps of Engineers”² and that “[t]he proposed rail line abandonment therefore does not appear to raise any concerns from the standpoint of the Corps of Engineers at this time.” *See* Attachment 8. However, the Corps-Omaha noted that it had “provided a copy of [RRVW’s] letter to [its] Regulatory Branch in order for them to evaluate whether there might be any possible wetland impacts.” *See* Section 9 of this Environmental Report.

The United States Department of Commerce, National Oceanic and Atmospheric Administration (“NOAA”) informed the Company, by letter dated August 6, 2004, that the abandonment of the Subject Line may affect 13 geodetic station markers, and requested prior notification in the event the Company plans activities that will disturb or destroy these markers.

¹ In addition to providing the Corps-Omaha with notice of the proposed abandonment, RRVW also provided the St. Paul District of the Corps of Engineers (“Corps-St. Paul”) with such notice, as North Dakota falls within both districts. Corps-St. Paul, by letter dated August 3, 2004, advised RRVW that the “railroad is not in St. Paul District, and as such [its] District Engineer is not in the position to have an opinion regarding the abandonment.” *See* Attachment 7.

² The letter noted that the National Park Service or the U.S. Fish and Wildlife Service may have issued the federally-granted rights of way. Both these agencies were notified about the proposed abandonment. Other than the Corp-Omaha District, RRVW received no Responses regarding federal land grants.

See Attachment 9. In the event the Company plans such activities, it will notify NOAA as requested.

The North Dakota Department of Health, Environmental Health Section (“ND-Health”), by letter dated August 6, 2004, stated that it “owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area.” *See* Attachment 10.

The right-of-way may be suitable for alternative public use, such as a snowmobile/ATV recreational trail.

4. *Energy.* (§ 1105.7(e)(4))

Because there has been no traffic over the Subject Line for more than two years, the proposed abandonment would not cause diversion of traffic from rail to motor carriers in excess of applicable thresholds in 49 CFR § 1105.7(e)(4) or affect recyclable commodities or the transportation of energy resources, or result in any change in overall energy efficiency.

5. *Air.* (§ 1105.7(e)(5))

Because there has been no traffic over the Subject Line for more than two years, the abandonment of the Subject Line would not cause effects in excess of any applicable thresholds in 49 CFR § 1105.7(e)(5).

ND-Health stated that the proposed abandonment is “consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.” *See* Attachment 10.

6. *Noise.* (§ 1105.7(e)(6))

Because the abandonment would not cause effects in excess of any threshold levels in 49 CFR § 1105.7(e)(5)(i), this issue is not applicable.

7. *Safety.* (§ 1105.7(e)(7))

The Company is unaware of any adverse effect of the abandonment to the public health or safety. On the contrary, the abandonment would improve the public health and safety by allowing the Company to terminate common carrier rail service over as many as 39 grade crossings, reducing the likelihood of vehicle delay and the risks of automobile-train and pedestrian-train accidents.

The Company is unaware of any known hazardous waste sites or sites where there have been known hazardous materials spills on the Subject Line's right-of-way.

8. *Biological Resources.* (§ 1105.7(e)(8))

The U.S. Fish and Wildlife Service in Bismarck, North Dakota advised the Company that the "[p]roject as described will have no significant impact on fish and wildlife resources," and that "[n]o endangered or threatened species are known to occupy the project area." See Attachment 11. The Company does not believe that any wildlife sanctuaries or refuges or national or state parks or forests will be adversely affected by the abandonment.

9. *Water.* (§ 1105.7(e)(9))

The Company has not received any Responses from the Agencies that the proposed abandonment is inconsistent with applicable federal, state or local water quality standards.

In telephone conversations between William May of the Corps-Omaha, (701) 255-0015, and the Company's counsel, Mr. May advised the Company that, with respect to bridges crossing water regulated by the Corps-Omaha, if removal of such bridges required placing materials in the wetlands below, the Company should obtain a permit. The Company intends to work with the Corps-Omaha to obtain any necessary permit with respect to the removal of the two bridges. It is unclear whether any such permit requirement stems from section 404 of the Clean Water Act.

No Agency has specifically recommended that the Company obtain a permit under section 404 of the Clean Water Act in connection with the proposed abandonment.

ND-Health stated that environmental impacts from the abandonment would be "minor and can be controlled by proper construction methods." *See* Attachment 10. That Agency provided certain comments with respect to the abandonment and salvage operations, some of which concern the protection of water systems. The Company intends to abandon the Subject Line in a manner consistent with the Agency's comments.

The North Dakota State Water Commission advised RRVW that "[t]he property is not located in an identified floodplain and it is believed the project will not affect an identified floodplain." The Agency also commented that "all waste material associated with the project must be disposed of properly and not placed in identified floodway areas." *See* Attachment 12. The Company intends to abandon the Subject Line in a manner consistent with the Agency's comment. The Agency concluded that "[t]here are no other concerns associated with this project that affect State Water Commission or State Engineer regulatory responsibilities."

In addition, as noted above in Section 3 of this Report, the Environmental Protection Agency, Region 8, stated that it is "currently aware of no issues pertaining to wetlands, 100-year flood plains or designated coastal zone areas which will be adversely affected." *See* Attachment 6. This Agency's Response did not indicate any need for a permit under Section 402 of the Clean Water Act.

10. *Proposed Mitigation.* (§ 1105.7(e)(10))

In the event substantive concerns arise regarding adverse environmental impacts, the Company will work with the appropriate agency, as required, to mitigate any adverse impacts the abandonment and salvage activities have on the environment.

HISTORIC REPORT

1. *Map.* (§ 1105.8(d)(1))

A map showing the location of the proposed abandonment is attached to this Report as Attachment 1.

2. *Right-of-Way.* (§ 1105.8(d)(2))

The towns through which the Subject Line runs are sparsely populated. The area consists of rolling hills, which is used primarily for agricultural or ranching purposes. The width of the right-of-way is generally 50 feet on each side, but in some areas the right-of-way is significantly wider.

3. *Photographs.* (§ 1105.8(d)(3))

Copies of photographs of the bridges and grain elevators described in paragraph 4 below are attached to this Report as Attachment 13. (The original photographs will be submitted to the Surface Transportation Board with the Company's abandonment filing.)

4. *Description of Structures.* (§ 1105.8(d)(4))

There are two bridges on the Subject Line: one bridge is located at or near milepost 5.9 ("Bridge 5.9"), and the other bridge is located at milepost 13 ("Bridge 13"). The Company does not know when the bridges were built. However, the Company believes that Bridge 5.9 was rebuilt around 1970. Bridge 13 underwent major repairs in 1998, after a portion of the bridge was destroyed in a fire. Bridge 5.9 is approximately 150 feet long and Bridge 13 is approximately 90 feet long.

Along the Subject Line, there are two grain elevators that are 50 years old or older, one of which is located in the city of Sykeston on the west edge of town, the other of which is located in the city of Bowdon on the western side of town. Neither grain elevator is owned by the

Company. RRVW will not alter or remove the grain elevators in connection with its salvage operations.

5. *History of Operations.* (§ 1105.8(d)(5))

The Company began operations of the Subject Line in or around 1987, after acquiring rights from the Burlington Northern Railroad. *See Railroad Acquisition; Red River Valley & Western Railroad Co.; Acquisition and Operation Exemption; Certain Lines of Burlington Northern Railroad Co.*, ICC Finance Docket No. 31071 (served July 22, 1987). The Company is uncertain exactly when the Subject Line was constructed, but RRVW estimates that rail was originally laid sometime in the early 1900s. As noted above, upon abandonment, the Company anticipates hiring a contractor to remove rail and other track materials from the Subject Line, recycling such materials, where possible, by using them on other parts of the Company's system. It is intended that the contractor will remove the two bridges on the Subject Line, but that any culverts on the line will remain in place.

6. *Documents.* (§ 1105.8(d)(6))

The Company does not have copies of engineering plans or drawings for the bridges and grain elevators referred to above.

7. *National Register of Historic Places.* (§ 1105.8(d)(7))

The State Historical Society of North Dakota ("HSND") has recommended that RRVW submit a Class I Cultural Resources Inventory of the "Area of Potential Effect," and that RRVW record on NDCRS site forms any structure over 50 years old that will be abandoned. *See* Attachment 14. The Company is currently working with HSND to provide it with the information it needs. The Company is not aware of any archaeological resources or previously unknown historic property on the Subject Line.

8. *Environmental Conditions.* (§ 1105.8(d)(8))

The Company is not aware of any known prior subsurface ground disturbance or fill, or any other environmental conditions (naturally occurring or manmade) that might affect the archaeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain. The Environmental Protection Agency, Region 8, has advised the Company that it is not "aware of any environmental conditions which could impede archeological activities." See Attachment 6.

M:\7971\4\trmw566BowdonEnvrReport4.doc



RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

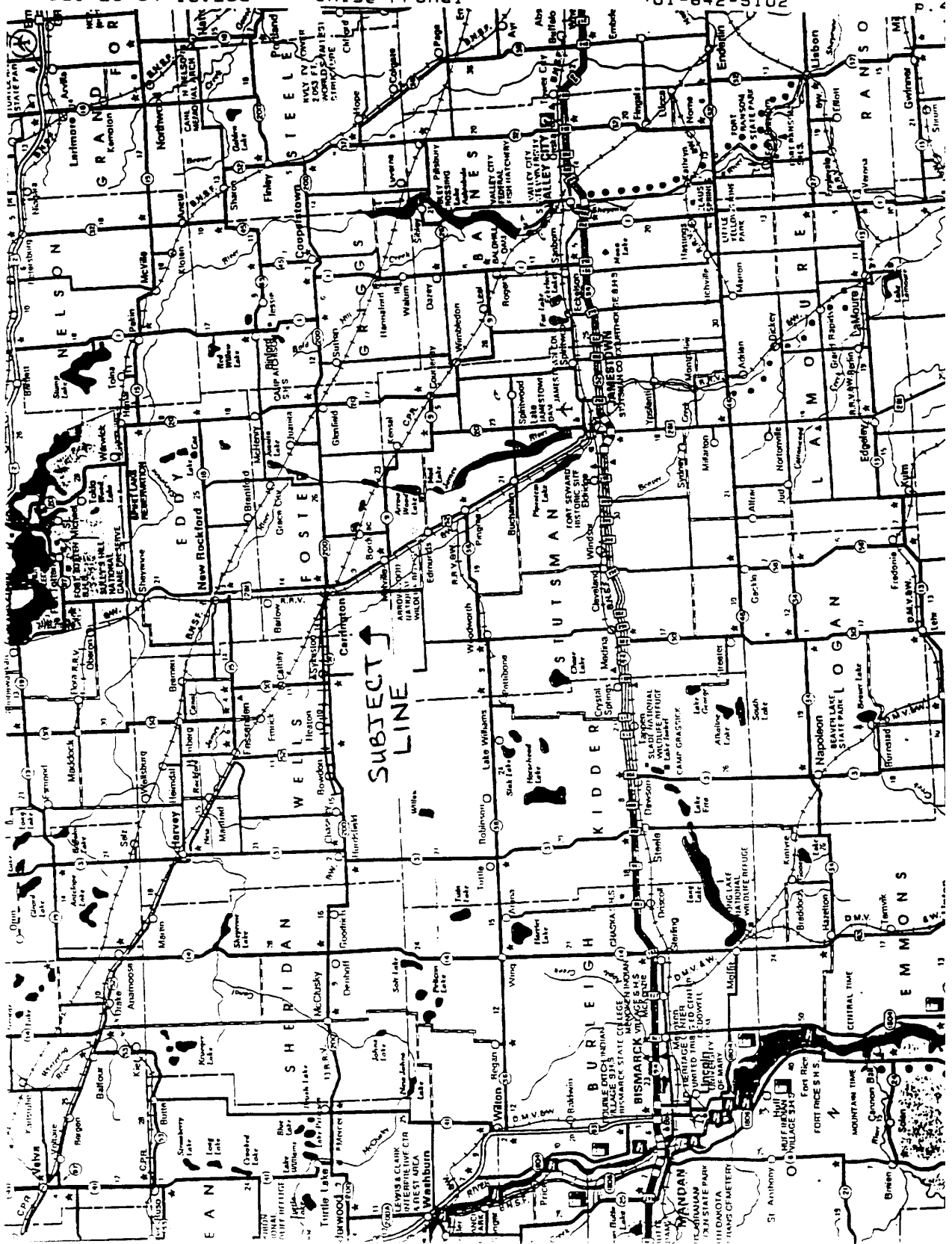
DOCKET NO. AB-391 (Sub-No. 10X)

ATTACHMENT 1

Jul 20 04 10:25a

Denise Prochal

701-642-5102



RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

ATTACHMENT 2

FOSTER COUNTY
AUDITOR'S OFFICE
P.O. Box 104
1000 10TH Avenue N
Carrington, ND 58421
Phone: 701-652-2441
Fax: 701-652-2173

Commissioners
Dwayne Erickson, Chairman
James Carr, Vice Chairman
Ken Gross

County Auditor
Roger R. Schlotman

August 6, 2004

WEINER BRODSKY SIDMAN KIDER PC
Attn: Rose-Michele Weinryb
1300 Nineteenth Street NW
Fifth Floor
Washington DC 20036-1609
AND
Surface Transportation Board

AUG - 6 - 2004

RE: Red River Valley & Western Railroad Company
Abandonment in Foster & Wells Counties, ND
Docket No. AB 391 (Sub-No. 10X)

Dear Chairperson:

This letter is to the Surface Transportation Board concerning the abandonment of approximately 27.76 miles of track in North Dakota from approximately railroad milepost 1.4, near Carrington, in Foster County, to the end of the track at milepost 29.16, in or near Bowdon, in Wells County.

We believe that no shipper located on the Subject Line has either shipped or received any carloads by rail for more than two years. Also, no overhead traffic currently travels over the Subject Line.

It is our opinion that the above-described abandonment does not raise any concerns for the residents of Carrington or rural Foster County.

This opinion is given at the authorization of the Board of County Commissioners.

Sincerely,



Roger R. Schlotman
Foster County Auditor

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

ATTACHMENT 3

OCT 14 2004

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Public Service Commission
State of North Dakota

OCT 14 2004
RECEIVED

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dep
Bismarck, North Dakota 58505-
web: www.psc.state.nd.gov
e-mail: ndpsc@psc.state.nd.gov
TDD 800-366-
Fax 701-328-
Phone 701-328-

August 3, 2004

Rose-Michele Weinryb
Weiner Brosky Sidman Kider PC
1300 Nineteenth Street NW
Fifth Floor
Washington, DC 20036-1609

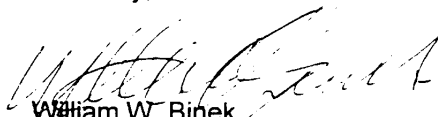
Re: Case No. RR-04-401 / STB Docket No. AB-391 (Sub-No. 10X)
Red River Valley & Western Railroad Company
Carrington to Bowdon, ND – 27.76 Miles
Abandonment

Dear Ms. Weinryb:

The North Dakota Public Service Commission ("Commission") acknowledges receipt of your letter dated July 29, 2004 advising that the Red River Valley & Western Railroad Company ("RRVW") expects to file with the Surface Transportation Board ("STB") a notice of exemption for the abandonment of approximately 27.76 miles of track between Carrington, North Dakota and Bowdon, North Dakota.

You requested that if it is the opinion that the abandonment does not raise any concerns from the standpoint of the Commission that a letter be sent to you to that effect. The Commission does not issue letters of agreement or letters expressing no concern regarding railroad abandonments. Any comments that the Commission may have concerning the proposed abandonment will be filed with the STB.

Sincerely,


William W. Binek
Chief Counsel

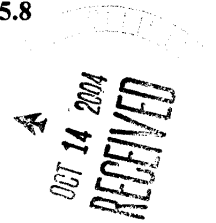
RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

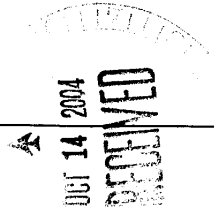
ATTACHMENT 4



United States Department of Agriculture



Natural Resources Conservation Service
P.O. Box 1458
Bismarck, ND 58502-1458



August 16, 2004

Rose-Michele Weinryb
Weiner Brodsky Sidman Kider PC
1300 Nineteenth Street NW
Fifth Floor
Washington, D.C. 20036-1609

RE: Red River Valley & Western Railroad Company--Abandonment in Foster & Wells
Counties, North Dakota—Docket No. AB 391 (Sub-No. 10X).

Dear Ms. Weinryb:

We have reviewed the information regarding the proposed abandonment of rail lines in Foster and Wells Counties in North Dakota. We offer the following comments based on the information you provided for this project:

1. To the extent possible, all natural drainage patterns should be maintained. Land use that may be affected during abandonment should be returned to the original land use cover.
2. If the railroad road bed is removed, spoil should not be placed in wetlands or natural watercourses. The local Natural Resources Conservation Service district conservationist in each county can provide wetland inventory maps as needed. Erosion control measures should be in effect during all periods of road bed removal activities.
3. The proposed abandonment will not convert important farmland. Important farmlands are in the project area but are expected to have minimal impacts.
4. This project should have no significant impact on existing soil and water conservation practices in the area.

Thank you for the opportunity to review and comment on this project. Should you require additional information, discussion, or clarification, please contact Doug Van Daalen, Planning Specialist, at (701) 530-2094.

Sincerely,

A handwritten signature in black ink, appearing to read "J.R. Flores".

J.R. FLORES
State Conservationist

cc:
Irwin Russell, ASTC (FO), NRCS, Devils Lake, ND
Donald Olds, DC, NRCS, Carrington, ND
Pamela Copenhaver, DC, NRCS, Fessenden, ND

The Natural Resources Conservation Service provides leadership in a partnership effort to help people
Conserve, maintain, and improve our natural resources

An Equal Opportunity Provider and Employer

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

ATTACHMENT 5



Roger Johnson
Agriculture Commissioner
www.agdepartment.com



none (701) 328-2231
Toll Free (800) 242-7535
Fax (701) 328-4567

600 E Boulevard Ave., Dept. 602
Bismarck, ND 58505-0020

August 18, 2004

Rose-Michele Weinryb
Attorney at Law
Weiner-Brodsky-Sidman-Kider PC
1300 19th Street NW
Washington DC 20036-1609

Dear Ms. Weinryb:

Thank you for your letter dated July 29, 2004, regarding the Red River Valley & Western Railroad Company's abandonment of 27.76 miles of rail line in Foster and Wells Counties, North Dakota. We have determined that the abandonment will not have an impact on programs or responsibilities of the North Dakota Department of Agriculture. Therefore, we have no objections to the abandonment of this section of rail line.

If you have any questions, please contact me or Jeff Olson, Plant Industries Program Manager at (800) 242-7535.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger Johnson", is written over a horizontal line.

Roger Johnson
Commissioner

RLJ:jo:jb

4
AUG 14 2004
FBI

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

ATTACHMENT 6





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

999 18TH STREET- SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

11/2 2 2004

Ref: 8EPR-EP

Rose-Michele Weinryb
Weiner Brodsky Sidman Kider PC
1300 Nineteenth Street NW
Fifth Floor
Washington, D.C. 20036-1609



RE: Control No. R8-0400436

Dear Ms. Weinryb:

Thank you for your letter of July 29, 2004, informing us of the intent of the Red River Valley & Western Railroad Company to abandon 27.76 miles of track in Foster County, North Dakota (Docket No. AB391 (Sub-No. 10X)). We are currently aware of no issues pertaining to wetlands, 100-year flood plains or designated coastal zone areas which will be adversely affected. Neither are we aware of any environmental conditions which could impede archeological activities.

If you have need of any further information which our office can provide, please contact Brent Truskowski of my staff at 303-312-6235, or e-mail at truskowski.brent@epa.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Christine S. Lehnertz".

Christine S. Lehnertz, Director
Ecosystems Protection Program

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

ATTACHMENT 7





DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS
190 FIFTH STREET EAST
ST. PAUL, MN 55101-1638

August 3, 2004

REPLY TO
ATTENTION OF:

Office of Counsel

Subject: Red River Valley & Western Railroad Company
Abandonment in Foster and Wells Counties, North Dakota
Docket No. AB 391 (Sub-No. 10X)

Ms. Rose-Michele Weinryb
Weiner, Brodsky, Sidman, Kider PC
1300 Nineteenth Street NW
Fifth Floor
Washington, DC 20036-1609

Dear Ms. Weinryb:

The referenced railroad is not in St. Paul District, and as such our District Engineer is not in the position to have an opinion regarding the abandonment. I have forwarded your letter to the Corps' Omaha District, 106 S. 15th Street, Omaha, NE 68102-1618.

Sincerely,

A handwritten signature in cursive script, appearing to read "Molly A. McKegney".

Molly A. McKegney
Assistant District Counsel

AUG - 5 2004



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RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

ATTACHMENT 8

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**DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA, NEBRASKA 68102-1618**

REPLY TO:

August 9, 2004

Office of Counsel

Rose-Michele Weinryb
Weiner, Brodsky
1300 Nineteenth Street N.W., Fifth Floor
Washington, DC 20036-1609

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AMR 10 2004

Re: Inquiry Concerning Red River Valley & Western Railroad Company
Proposed Abandonment, Foster and Wells Counties, North Dakota

Dear Ms. Weinryb:

This letter responds to your July 29 letter, subject as above, directed to the St. Paul District of the Corps of Engineers. Since the subject rail line is located within this office's jurisdiction, St. Paul District forwarded your inquiry to Omaha District for a response.

Upon receipt of your letter I inquired of our Real Estate Division whether the proposed abandonment raised any concerns. I am informed that the location of the railroad track proposed for abandonment does not cross, touch upon or exist within the relative proximity of any Corps of Engineers project location or otherwise administered lands. Therefore it is unlikely that any federal rights-of-way would have been issued by the Corps of Engineers.

Other federal properties that do exist in close proximity to the railroad include the North Country National Scenic Trail (administered by the National Park Service) and a wildlife refuge (administered by the U.S. Fish and Wildlife Service). It is possible that the federally granted rights-of-way mentioned in your letter could have been issued by either one of these federal agencies.

The proposed rail line abandonment therefore does not appear to raise any concerns from the standpoint of the Corps of Engineers at this time. Nonetheless, I have also provided a copy of your letter to our Regulatory Branch in order for them to evaluate whether there might be any possible wetland impacts.

The copy of the Report to be furnished to the Surface Transportation Board, referenced in your letter, should be provided to Omaha District rather than to St. Paul District.

Sincerely,

Stanley E. Tracey
Assistant District Counsel

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

ATTACHMENT 9

**OCT 14 2004
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UNITED STATES DEPARTMENT OF COMMERCE
National Ocean Service and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Geodetic Survey
Silver Spring, Maryland 20910-3282

AUG 6 2004

Ms. Victoria J. Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

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OCT 14 2004

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Dear Ms. Rutson:

The area in question on the map with the Environmental and Historic Reports for the proposed rail line abandonment of Red River Valley & Western Railroad Company for 27.76 miles of rail line in North Dakota, from approximately railroad milepost 1.4, in or near Carrington, in Foster County, to the end of the track at approximately railroad milepost 29.16, in or near Bowdon in Wells County, STB Docket No. AB-391 (Sub-No. 10X), has been reviewed within the areas of National Geodetic Survey (NGS) responsibility and expertise and in terms of the impact of the proposed actions on NGS activities and projects.

As a result of this review, 13 geodetic station markers have been identified that may be affected by the proposed abandonment; a listing of these markers is enclosed. Additional information about these station markers can be obtained via the Internet or NGS CD-ROM. A fact sheet for these two data retrieval methods is enclosed. If there are any planned activities which will disturb or destroy these markers, NGS requires not less than 90 days notification in advance of such activities in order to plan for their relocation.

If further information is needed for these geodetic markers, contact Mr. Frank C. Maida. His address is NOAA, N/NGS2, Room 8736, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, telephone: 301-713-3198, fax: 301-713-4324, e-mail: Frank.Maida@noaa.gov.

Sincerely,

Richard A. Snay
Chief, Spatial Reference System Division

Enclosures

cc: N/NGS1 - G. Mitchell
Rose-Michele Weinryb, Weiner Brodsky Sidman Kider PC



Printed on Recycled Paper



RED RIVER VALLEY & WESTERN RAILROAD COMPANY

IN FOSTER AND WELLS COUNTIES, NORTH DAKOTA

BETWEEN CARRINGTON AND BOWDON

DOCKET NO. AB-391 (SUB-NO. 10X)

13 GEODETIC CONTROL MARKS IN THE PROPOSED ABANDONMENT AREA

PIDS	DESIGNATION	LATITUDE	LONGITUDE
SM0815	D 72	N472721	W0990755
SM0800	V 74	N472738	W0990936
SM0801	W 74	N472738	W0991209
SM0802	Y 74	N472735	W0991639
SM0803	Z 74	N472739	W0991832
SM0804	A 75	N472748	W0992156
SM0805	B 75	N472748	W0992339
SM0806	C 75	N472756	W0992612
SM0807	D 75	N472811	W0992847
SM0833	E 75	N472820	W0993002
SM0834	G 75	N472850	W0993511
SM0835	J 75	N472834	W0994014
SM0836	K 75	N472802	W0994228



National Geodetic Survey - News Flash!



GEODETIC DATA AVAILABLE FREE ON THE INTERNET

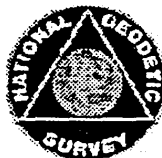
Are you interested in getting the most current position, height, and descriptive information for all the geodetic control points in the National Spatial Reference System? Are you interested in getting this information immediately, free of cost, and whenever you want it? With an Internet connection, this information is yours to download.

The National Geodetic Survey's (NGS) data sheet contains position, height, and descriptive information for approximately 750,000 control points throughout the United States. The data sheet provides:

- ▶ The geodetic coordinates and the orthometric height for each point
- ▶ The horizontal and vertical datums on which the information is based
- ▶ State plane coordinates and Universal Transverse Mercator coordinates
- ▶ Modeled geoid height, ellipsoidal height, modeled gravity, and Laplace correction
- ▶ A description of the station's location and how to reach it

To obtain this information, set your Web browser to
http://www.ngs.noaa.gov/products_services.html

For more information contact:
NOAA, National Geodetic Survey, N/NGS12
1315 East-West Highway, Station 09202
Silver Spring, MD 20910
Telephone: (301) 713-3242; Fax: (301) 713-4172
Monday through Friday, 7:00 a.m. - 4:30 p.m., Eastern Time
<http://www.ngs.noaa.gov>



NGS: Tying America Together

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

ATTACHMENT 10

**OCT 14 2004
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**NOI I DAKOTA DEPARTMENT OF HEALTH
Environmental Health Section**

Location:

1200 Missouri Avenue
Bismarck, ND 58504-5264

Fax #:

701-328-5200

Mailing Address:

P.O. Box 5520
Bismarck, ND 58506-552

August 6, 2004

Rose-Michele Weinryb
Weiner, Brodsky, Sidman, Kider PC
1300 19th Street NW, 5th Floor
Washington, D.C. 20036-1609

OCT 14 2004
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Re: Railroad Abandonment, Docket No. AB 391 (Sub-No. 10X), Foster & Wells Counties

Dear Ms. Weinryb:

This department has reviewed the information concerning the above-referenced project submitted under date of July 29, 2004, with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, we have the following comments:

1. Follow Best Management Practices during salvage activities to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body.
2. Any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during abandonment and salvage operations, must be reported to the North Dakota Department of Health. The Department's Environmental Emergency Response Contacts List is attached.
3. The construction project overlies the Carrington aquifer. Care should be taken to avoid spills of any materials that may have an adverse effect on groundwater quality. All spills must be immediately reported to this Department and appropriate remedial actions performed.

The department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,

L. David Glatt, P.E., Chief
Environmental Health Section

AUG 11 2004

LDG:cc
Attach.

Environmental Health
Section Chief's Office
701-328-5150

Air
Quality
701-328-5188

Municipal
Facilities
701-328-5211

Waste
Management
701-328-5166

Water
Quality
701-328-5210

Website: www.health.state.nd.us/ndhd/environ
Printed on recycled paper.

North Dakota Department of Health Environmental Health Section Environmental Emergency Response Contacts List

NORMAL WORKING HOURS 8 a.m. - 5:00 p.m., Monday - Friday Call the office phone numbers

AFTER HOURS 24 hours per day, 7 days per week STATE RADIO 1-701-328-9921 or 1-800-472-2121 (in-state calls)
--

Page

HEALTH DEPARTMENT CASE MANAGER

Page

ENVIRONMENTAL HEALTH SECTION CASE MANAGER Office phone no.: 328-5150
--

Alternate Contact

Primary Contacts

WATER POLLUTION oil spills Office phone no.: 328-5210	AIR POLLUTION gases, vapors Office phone no.: 328-5188	RADIATION radioactive materials Office phone no.: 328-5188	TOXIC & HAZARDOUS MATERIALS pesticides, insecticides, chemicals Office phone no.: 328-5166	DRINKING WATER public water systems Office phone no.: 328-5211	CHEMISTRY LABORATORY sample analysis Office phone no.: 328-4140
--	---	---	---	---	--

1st Alternative Contact Dana Mount Office phone no.: 328-5150 Home phone no.: 223-6735
--

2nd Alternative Contact L. David Gantt Office phone no.: 328-5150
--

Approved by: *[Signature]* Date: June 4, 2002

Emergency Response Coordinator

Approved by: *[Signature]* Date: June 4, 2002

Chief, Environmental Health Section

ND Department of Health
Environmental Health Section
1200 Missouri Avenue
P.O. Box 5520
Bismarck, ND 58506-5520

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

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OCT 14 2004

ATTACHMENT 11

WEINER BRODSKY SIDMAN KIDER PC

BRUCE E. ALEXANDER*
RICHARD J. ANDREANO, JR.
SANDRA L. BRICKEL
JAMES A. BRODSKY
DONALD C. BROWN, JR.
JO A. DeROCHE
TROY W. GARRIS
CYNTHIA L. GILMAN
DON J. HALPERN
MITCHEL H. KIDER
THOMAS LAWRENCE III
ALDYS A. LONDON
JAMES M. MILANO

SUZANNE DE ARMOND MUCCHETTI
HAYDN J. RICHARDS, JR.*
LEAH SCHMULEWITZ GETLAN
R. COLGATE SELDEN
MARK H. SIDMAN
JOHN D. SOCKNAT
DAVID M. SOUDERS
CYNTHIA G. SWANN
MICHAEL S. WALDRON
HARVEY E. WEINER
ROSE-MICHELE WEINRYB
JUSTIN P. ZIMMER*
*NOT ADMITTED IN D.C.

July 29, 2004

1300 NINETEENTH STREET NW
FIFTH FLOOR
WASHINGTON DC 20036 1609
TEL 202 628 2000
FAX 202 628 2011

BY FIRST-CLASS MAIL

U.S. Fish and Wildlife Service
Attn: Jeffrey Towner, Field Supervisor
3425 Miriam Avenue
Bismarck, ND 58501

Re: Red River Valley & Western Railroad Company
--Abandonment in Foster and Wells Counties, North Dakota --
Docket No. AB 391 (Sub-No. 10X)

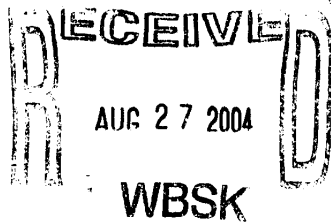
Dear Mr. Towner:

On or after September 15, 2004, Red River Valley & Western Railroad Company ("RRVW") expects to file with the Surface Transportation Board (the "Board") a notice of exemption ("Notice") pursuant to 49 C.F.R. § 1152.50 from the prior approval requirements of 49 U.S.C. § 10903, the section of the ICC Termination Act of 1995 that regulates abandonment of rail lines. This notice concerns the abandonment of approximately 27.76 miles of track in North Dakota from approximately railroad milepost 1.4, in or near Carrington, in Foster County, to the end of the track at approximately railroad milepost 29.16, in or near Bowdon, in Wells County (the "Subject Line"). The Subject Line runs through United States Postal Zip Codes 58486, 58418 and 58421.

No shipper located on the Subject Line has either shipped or received any carloads by rail for more than two years. Furthermore, no overhead traffic currently travels over the Subject Line.

A map identifying the location of the Subject Line is attached hereto as Exhibit A. The proceeding will be docketed as No. AB-391 (Sub-No. 10X). Based on information in RRVW's possession, the Subject Line does contain federally granted rights-of-way. Any documentation in RRVW's possession will be made available promptly to those requesting it.

SEP 14 2004
RECEIVED



July 29, 2004

Pursuant to 49 C.F.R. §§ 1105.7 and 1105.8, along with its Notice, RRVW must file with the Board an environmental and historic report (the "Report") assessing the abandonment. The environmental portion of the Report must address, among other things, the issues listed below, which may be of interest to your agency:

- The effect on any endangered or threatened species or critical habitats.
- The effect on any wildlife sanctuaries or national or state parks or forests.
- Whether any designated wetlands, 100-year flood plains or designated coastal zone areas will be affected.

The historic portion of the Report must address, among other things, the following issues:

- Whether any structures located on the Subject Line, or the area on which the line is located, should be listed on the National Register of Historic Places.
- Whether any environmental condition exists that could impede archeological activities.

The purpose of this letter is to alert you to the proposed abandonment and to request that you furnish our firm with any information or comments, or direct any questions to us that you may have regarding the abandonment. If it is your opinion that the above-described abandonment does not raise any concerns from the standpoint of your agency, please furnish our firm with a letter to that effect. A copy of your letter will be attached to RRVW's Report to ensure that the Board is fully apprised of your position. We would appreciate a response to this letter as soon as possible so that your views can be incorporated into the Report, which will be sent to you on or about August 26, 2004.

Thank you for your attention to this matter.

U.S. FISH AND WILDLIFE SERVICE

ECOLOGICAL SERVICES
ND FIELD OFFICE

Project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT PLANS FOR REVIEW.

8/23/04

Date

Jeffrey K. Towner
Field Supervisor

Very truly yours,

Rose-Michele Weinryb

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

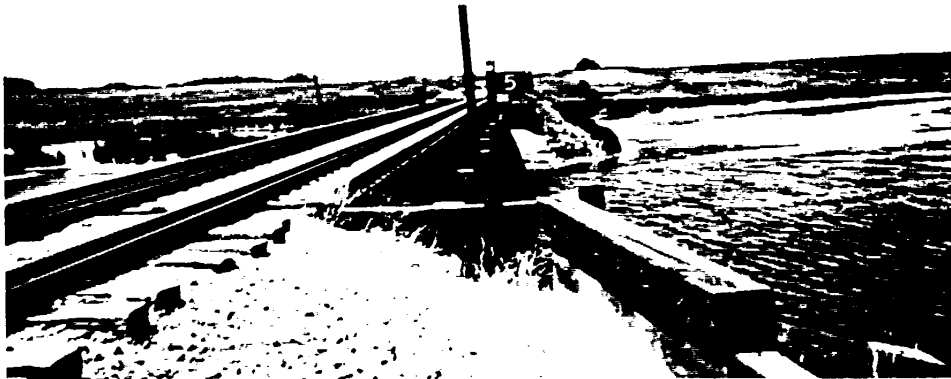
MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

ATTACHMENT 12

▲
OCT 14 2004
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Bridge 5.9
East Side



Bridge 5.9
West Side



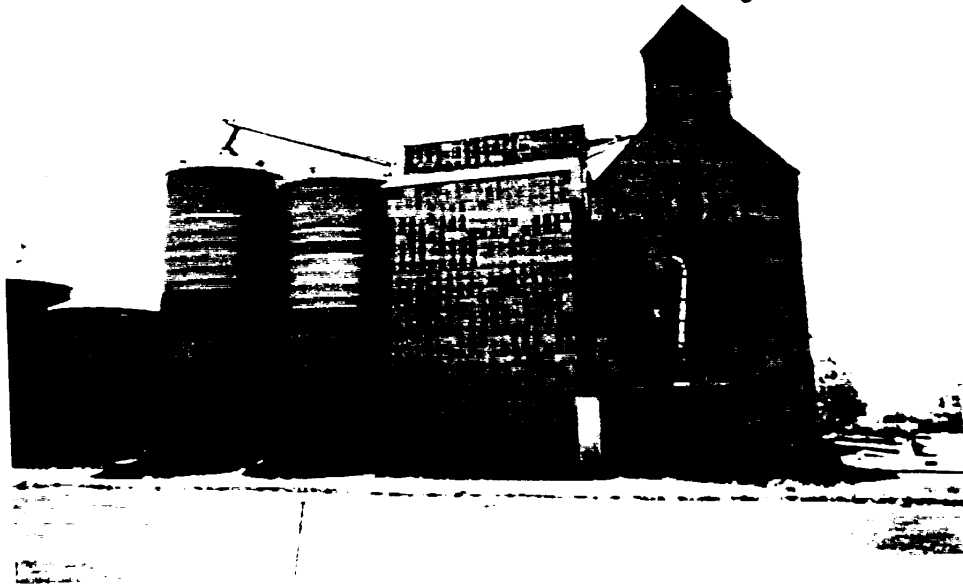
Bridge 13



Bridge 13

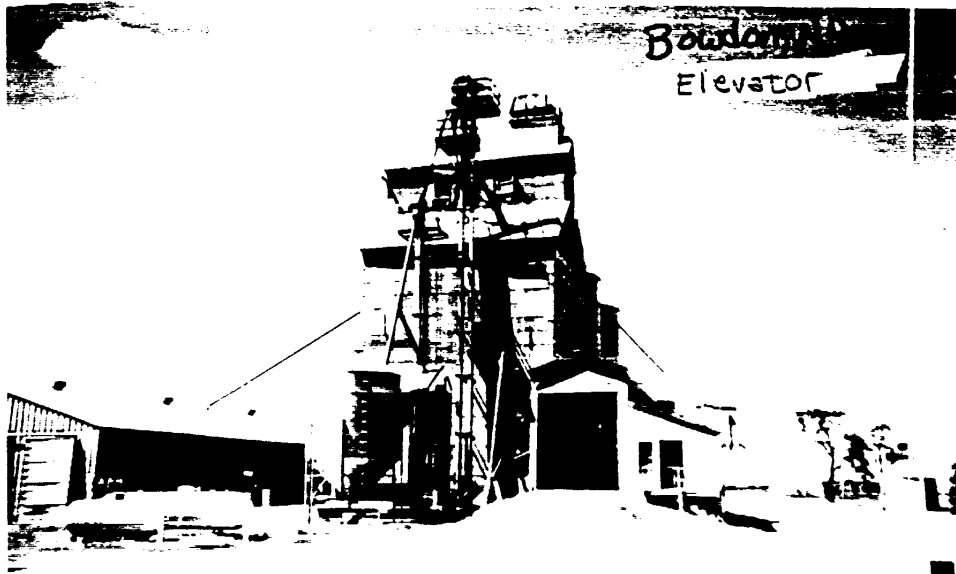


Sykeston Elevator
W side



NE Corner
of Elevator
Sykeston, ND





RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 10X)

ATTACHMENT 14

Jul 14 2011
RECEIVED



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

RECEIVED
AUG 11 2004

John Hoeven
Governor of North Dakota

August 6, 2004

112 - 0 2004

North Dakota
State Historical Board

Diane K. Larson
Bismarck - President

Marvin L. Kaiser
Williston - Vice President

Albert I. Berger
Grand Forks - Secretary

Chester E. Nelson, Jr.
Bismarck

Gerold Gemtholz
Valley City

A. Runc Todd III
Jamestown

Sara Otte Coleman
Director
Tourism Division

Kathi Gilmore
State Treasurer

Alvin A. Jaeger
Secretary of State

Douglass Prchal
Director
Parks and Recreation
Department

David A. Spryncznarik
Director
Department of Transportation

John E. Von Rueden
Bismarck

Merlan E. Paaverud, Jr.
Director

Accredited by the
American Association
of Museums

Rose-Michele Weinryb
Weiner, Brodsky, Sidman, Kider, PC
1300 19th Street NW, 5th Floor
Washington, D.C. 20036-1609

ND SHPO REF.: 04-1021, Proposed Red River Valley & Western Railroad
Company Abandonment, Carrington to Bowdon, ND.

Dear Ms. Weinryb:

We have reviewed Project: 04-1021, proposed abandonment of the Red River Valley & Western Railroad Company line between the Cities of Carrington and Bowdon (mile posts 1.4 to 29.16), Foster and Wells Counties, ND.

We recommend that a Class I Cultural Resources Inventory (i.e., files search) of the Area of Potential Effect (APE) be prepared and submitted to our office for consultation. The results of the files search should include a short report detailing all cultural resources (including potential or actual historic properties) in the legal sections of the APE and 7.5' topographic maps with the cultural resource locations and previously inventoried areas plotted and marked on it.

We also recommend that any structure(s), building(s) and/or railway station(s) over 50 years of age that are to be abandoned be recorded on NDCRS site forms. The recording should be completed by a state permitted cultural resource firm/architectural historian. A list of state permitted firms is enclosed.

Thank you for the opportunity to review this project. Please include the ND SHPO Reference number listed above in any further correspondence for this specific project. If you have any questions please contact Duane Klinner at (701) 328-3576.

Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer
(North Dakota)

2004 NORTH DAKOTA CULTURAL RESOURCE INVESTIGATION PERMIT HOLDERS

<u>PERMIT HOLDER</u>	<u>EXPERTISE</u>		
	Archeology	Historic Architecture	History
Anthropology Research Department of Anthropology University of North Dakota P. O. Box 7094 Grand Forks, ND 58202-7094 Contact: Dr. Dennis Toom Telephone: 701-777-2436 or 2437 Fax: 701-777-2435 email: dennis_toom@und.nodak.edu (01/2004)	X	X	X
OR			
UNdar-West P. O. Box 737 Belfield, ND 58622-0737 Contact: Greg Wermers Telephone: 701-575-4074 Fax: 701-575-4180 email: undarwst@pop.ctctel.com (01/2004)	X	X	X
Bear Creek Archeology, Inc. P. O. Box 347 Cresco, Iowa 52136 Contact: David Stanley Telephone: 563-547-4545 (01/2004)	X		
Dust Devil Archaeology, Inc. 100 West B St., Ste. 125 Casper, WY 82601 Contact: Lisa Archibeque Goss Telephone: 307-232-8180 6/2004	X		

2004 NORTH DAKOTA CULTURAL RESOURCE INVESTIGATION PERMIT HOLDERS

<u>PERMIT HOLDER</u>	<u>EXPERTISE</u>		
	Archeology	Historic Architecture	History
Earthworks Operations Director 128 Soo Line Drive Bismarck, ND 58501 Contact: Beth Nodland Telephone: 701-250-5900 (5/2004)	X		
Ethnoscience, Inc. 4140 King Avenue East Billings, MT 59101 Contact: Lynelle Peterson Telephone: 406-252-7945 Fax: 406-252-9483 (01/2004)	X		X
Florin Cultural Resource Services N12047 280th Street Boyceville, WI 54725 Contact: Frank Florin Telephone: 715-643-2918 (2/2004)	X		
.410 Corporation 3803 Willow Road West Fargo, ND 58078 Contact: Dr. Tom Isern Telephone: 701-799-2942 (2/2004)		X	X
GCM Services, Inc. Box 3047 Butte, MT 59702 Contact: David Ferguson Telephone: 406-723-4387 (01/2004)	X		X

2004 NORTH DAKOTA CULTURAL RESOURCE INVESTIGATION PERMIT HOLDERS

<u>PERMIT HOLDER</u>	<u>EXPERTISE</u>		
	Archeology	Historic Architecture	History
Greystone Environmental Consultants, Inc. 5231 South Quebec St. Greenwood Village, CO 80111 Contact: Carl Späth Telephone: 303-850-0930 (01/2004)	X		
Hess, Roise and Company The Foster House 100 north First Street Minneapolis, MN 55401 Contact: Charlene K. Roise Telephone: 612-338-1987 (2/2004)		X	X
HDR Engineering, Inc. 6190 Golden Hills Drive Minneapolis, MN 55416 Contact: Daniel R. Pratt Telephone: 763-278-5921 (1/2004)	X	X	
Jeff Kinney & Associates, Inc. P. O. Box 43 Manvel, ND 58256 Contact: Jeff Kinney Telephone: 701-696-2289 (4/2004)	X		
Lou Hafermehl 610 North 7th Street #11 Bismarck, ND 58501 Telephone: 701-250-8544 (01/2004)		X	X
Kent Good & Associates 1920 E. Capitol Avenue #204 Bismarck, ND 58501 Contact: Kent Good Telephone: 701-224-9821 (02/2004)	X		

2004 NORTH DAKOTA CULTURAL RESOURCE INVESTIGATION PERMIT HOLDERS

<u>PERMIT HOLDER</u>	<u>EXPERTISE</u>		
	Archeology	Historic Architecture	History
The Louis Berger Group, Inc. 950 50 th Street Marion, IA 52302 Contact: Randall Withrow Telephone: 319-373-3043 (01/2004)	X	X	
Metcalf Archaeological Consultants, Inc. P. O. Box 899 Eagle, CO 81631 Contact: Mike Metcalf Telephone: 970-328-6244 1-800-755-6241 (01/2004)	X		
OR			
Metcalf Archaeological Consultants, Inc. P. O. Box 2154 Bismarck, ND 58502 Contact: Suzanne Nelsen Telephone: 701-258-1215 (01/2004)	X		
Minnesota State University Moorhead 1104 7 th Avenue South Moorhead, MN 56563 Contact: Dr. Michael Michlovic Telephone: 218-477-2035 (2/2004)	X		
ND Department of Transportation 608 E. Blvd. Ave Bismarck, ND 58505 Contact: Kent Good Telephone: 701-328-2731 (01/2004)	X		X

2004 NORTH DAKOTA CULTURAL RESOURCE INVESTIGATION PERMIT HOLDERS

<u>PERMIT HOLDER</u>	<u>EXPERTISE</u>		
	Archeology	Historic Architecture	History
ND Institute for Regional Studies Box 5075 NDSU Fargo, ND 58105-5075 Contact: Dr. Thomas J. Riley Telephone: 701-231-8338 (03/2004)	X		
Quality Cultural Resource Services 2416 Jackson Blvd. Rapid City, SD 57702 Telephone: 605-721-0701 Contact: Lance Rom (1/2004)	X	X	
Renewable Technologies, Inc. 511 Metals Bank Bldg. Butte, MT 59701 Contact: Kimberly L. Tintinger Telephone: 406-782-0494 Fax: 406-782-3064 (01/2004)	X	X	X
TRC Mariah Associates, Inc. 605 Skyline Drive Laramie, WY 82070-8909 Contact: Craig S. Smith Telephone: 307-742-3843 Fax: 307-745-3317 (01/2004)	X		X
TWB Archaeological Consulting 3336 Humboldt Ave. S Minneapolis, MN 55408-3330 Contact: Thomas Bailey Telephone: 612-825-4947 (07/2004)	X		

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Environmental and Historic Report was served on
September 14, 2004, by first-class mail, postage pre-paid, on the following parties:

Department of Commerce
Division of Community Services
Attn: Paul Govig, Director
1600 East Century Avenue
Suite 2
Bismarck, ND 58502

U.S. Environmental Protection Agency
Region No. 8
Attn: Regional Administrator, Robbie Roberts
999 18th Street, Suite 300; RA
Denver, CO 80202-2466

US Army Corps of Engineers
Omaha District
Regulatory Branch
12565 West Center Road
Room 151
Omaha, NE 68144-3869

State Single Point of Contact
Governor's Office
600 East Boulevard Avenue
Department 101
Bismarck, ND 58505-0001

Department of Interior
National Park Service
National Center Recreation and Conservation
1849 C Street, NW
ORG Code 2220
Washington, D.C. 20240

North Dakota Department of Health
Environmental Health Section
Attn: Chief David Glatt
P.O. Box 5520
1200 Missouri Avenue
Bismarck, ND 58506-5520

US Fish and Wildlife Service, Region 6
Attn: Regional Director, Ralph O. Morgenweck
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

US Army Corps of Engineers
St. Paul District
District Engineer
190 5th Street East
St. Paul, MN 55101-1638

US Army Corps of Engineers
North Dakota Regulatory Office
Attn: Dan Zinarosti, Project Manager
1513 South 12th Street
Bismarck, N.D. 58504

Natural Resources Conservation Service (NRCS)
Attn: J.R. Flores, State Conservationist
220 E. Rosser Avenue
P.O. Box 1458
Bismarck, ND 58502-1458

Frank Maida
Chief, Spatial Reference System Division
Department of Commerce - NOAA
National Geodetic Survey; N/NGS12
1315 East West Highway
Silver Spring, MD 20910-3282

North Dakota Public Service Commission
Attn: Illona Jeffcoat-Sacco, Executive Secretary
State Capitol
600 East Boulevard Ave.
Department 408
Bismarck, ND 58505-0480

Department of Interior
National Park Service
Land Resource Division
Attn: Bill Shaddox
1849 C Street, NW
Washington, D.C. 20240

North Dakota Department of Agriculture
Attn: Roger Johnson, Commissioner
600 East Boulevard Avenue
Department 602
Bismarck, ND 58505-0020

U.S. Fish and Wildlife Service
Attn: Jeffrey Towner, Field Supervisor
3425 Miriam Avenue
Bismarck, ND 58501

ND State Water Commission
Attn: Dale Frink, State Engineer
900 East Boulevard Avenue
Bismarck, ND 58505

Historical Society of North Dakota
Heritage Center
Attn: Duane Kliner, Project Review Coordinator
612 East Boulevard Avenue
Bismarck, ND 58505

MTMC-TEA
Railroads for National Defense Program
Attn: Robert Korpanty
720 Thimble Shoals Boulevard
Suite 130
Newport News, VA 23606-2574

U.S. Department of Agriculture
Attn: Dan Bosworth, Chief of Forest Service
201 14th Street, S.W., Room 4 North West
Washington, D.C. 20090

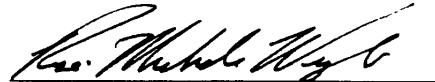
USDA-NRCS-NPRO
Federal Building
Attn: Richard Van Klaveren
Regional Conservationist
100 Centennial Mall North
Lincoln, NE 68508

ND Department of Transportation
Attn: Planning Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

Foster County Commissioners
1000 5th Street North
Carrington, ND 58421

Wells County Commissioners
P.O. Box 37
Fessenden, ND 58438

National Park Service
Midwest Region
Attn: Regional Director
601 River Front Drive
Omaha, NE 68102-4226


Rose-Michele Weinryb, Esq.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 10X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
– ABANDONMENT EXEMPTION –
FOSTER AND WELLS COUNTIES, NORTH DAKOTA**

EXHIBIT E

POST SEPTEMBER 14, 2004, CORRESPONDENCE

**OCT 14 2004
RECEIVED**



**NORTH DAKOTA DEPARTMENT OF HEALTH
Environmental Health Section**

Location:

1200 Missouri Avenue
Bismarck, ND 58504-5264

Fax #:

701-328-5200

Mailing Address:

P.O. Box 5520
Bismarck, ND 58506-5520

September 21, 2004

4
OCT 14 2004
RECEIVED

SEP 24 2004

Rose-Michele Weinryb
Weiner, Brodsky, Sidman, Kider PC
1300 19th Street NW, 5th Floor
Washington, D.C. 20036-1609

Re: Railroad Abandonment, Docket No. AB 391 (Sub-No. 10X)
Foster & Wells Counties

Dear Ms. Weinryb:

This department has reviewed the information concerning the above-referenced project submitted under date of September 14, 2004, with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, our comments remain the same as those in our August 6, 2004 response to you (copy attached).

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,

L. David Glatt, P.E., Chief
Environmental Health Section

LDG:cc
Attach.

Environmental Health
Section Chief's Office
701-328-5150

Air
Quality
701-328-5188

Municipal
Facilities
701-328-5211

Waste
Management
701-328-5166

Water
Quality
701-328-5210

Website: www.health.state.nd.us/ndhd/envirom
Printed on recycled paper.



NORTH DAKOTA DEPARTMENT OF HEALTH
Environmental Health Section

Location:

1200 Missouri Avenue
Bismarck, ND 58504-5264

Fax #:

701-328-5200

Mailing Address:

P.O. Box 5520
Bismarck, ND 58506-5520

August 6, 2004

Rose-Michele Weinryb
Weiner, Brodsky, Sidman, Kider PC
1300 19th Street NW, 5th Floor
Washington, D.C. 20036-1609

Re: Railroad Abandonment, Docket No. AB 391 (Sub-No. 10X), Foster & Wells Counties

Dear Ms. Weinryb:

This department has reviewed the information concerning the above-referenced project submitted under date of July 29, 2004, with respect to possible environmental impacts.


This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, we have the following comments:

1. Follow Best Management Practices during salvage activities to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body.
2. Any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during abandonment and salvage operations, must be reported to the North Dakota Department of Health. The Department's Environmental Emergency Response Contacts List is attached.
3. The construction project overlies the Carrington aquifer. Care should be taken to avoid spills of any materials that may have an adverse effect on groundwater quality. All spills must be immediately reported to this Department and appropriate remedial actions performed.

The department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,



L. David Glatt, P.E., Chief
Environmental Health Section

LDG:cc
Attach.

Environmental Health
Section Chief's Office
701-328-5150

Air
Quality
701-328-5188

Municipal
Facilities
701-328-5211

Waste
Management
701-328-5166

Water
Quality
701-328-5210

Website: www.health.state.nd.us/ndhd/envirom

Printed on recycled paper.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
190 FIFTH STREET EAST
ST. PAUL, MN 55101-1638

September 20, 2004

Project Management and Development Branch
Planning, Programs and Project Management Division

SUBJECT: Docket No. AB-391 (Sub-No. 10X), Red River Valley & Western Railroad
Company – Abandonment – In Foster and Wells Counties, North Dakota

Ms. Rose-Michele Weinryb
Weiner Brodsky Sidman Kider PC
1300 19th Street NW, Fifth Floor
Washington, D.C. 20036-1609

SEP 27 2004

WBSK

Dear Ms. Weinryb:

We are responding to your letter of September 14, 2004, concerning the Red River Valley and Western Railroad Company's proposed abandonment of 27.76 miles of rail line in Foster and Wells Counties, North Dakota.

The Omaha District, Corps of Engineers has jurisdiction for both civil works and regulatory matters in the area of the proposed rail abandonment. Accordingly, we have forwarded your letter and enclosure to the U.S. Army Corps of Engineers, Omaha District, 106 South 15th Street, Omaha, Nebraska 68102-1618 for review of the project.

Sincerely,

Russel K. Snyder
Project Manager

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 10X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
– ABANDONMENT EXEMPTION –
FOSTER AND WELLS COUNTIES, NORTH DAKOTA**

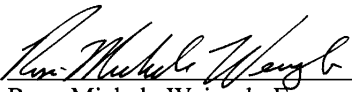
EXHIBIT F

CERTIFICATE OF PUBLICATION

**OCT 14 2004
RECEIVED**

CERTIFICATE OF PUBLICATION

Based on the attached affidavits, I hereby certify to the following: A newspaper notice alerting the public to the proposed abandonment of the Subject Line was published on (1) August 7, 14, and 21, 2004, in the Herald Press (a weekly newspaper of general circulation, published in Harvey, North Dakota in Wells County), and (2) on August 9, 16 and 23, 2004, in the Foster County Independent (a weekly newspaper of general circulation published in Carrington, North Dakota in Foster County). Affidavits of publication are attached hereto as Attachment 1.


Rose-Michele Weinryb, Esq.

ATTACHMENT 1
AFFIDAVITS OF PUBLICATION

Affidavit of Publication

STATE OF NORTH DAKOTA)
County of Wells) ss

I, Peg Bell, being first duly sworn, on my oath, say that I am the recorder of The Herald-Press, a weekly newspaper of general circulation, published in the city of Harvey, in said county and state, and that the advertisement headed:

Notice of Intent to Abandon

a printed copy of which is here annexed, was published in the regular and entire issue of said newspaper during the period and time of publication, and that the notice was published in the newspaper proper, and not in a supplement,

for 3 consecutive week(s) _____ to wit:

Straight Matter Lines	<u>55</u>	<u>8-7, 14, 21</u>	<u>20</u>	<u>04</u>
First Time Line Rate	<u>167</u>		<u>20</u>	
Subsequent Line Rates	<u>167</u>		<u>20</u>	
Tabulated Lines			<u>20</u>	
First Time Line Rate			<u>20</u>	
Subsequent Line Rates			<u>20</u>	
Column Inches			<u>20</u>	
First Time Inch Rate			<u>20</u>	
Subsequent Inch Rates			<u>20</u>	

Notary Fee

Total Cost of Legal, \$ 110.55

Peg Bell
Subscribed and sworn to before me this 24th day of

Aug A.D. 20 04

(Seal)

Notary Public, State of North Dakota

JANINE SCHMITZ
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires APR. 22, 2005

Notice of Intent to Abandon Rail Service

NOTICE OF INTENT TO ABANDON RAIL SERVICE
Red River Valley Western Railroad Company (RRVW) hereby gives notice that on or after September 15, 2004, it intends to file with the Surface Transportation Board (STB) a petition for exemption under 49 CFR 1104.11(a) for the proposed abandonment of approximately 27.2 miles of railroad track, from approximately 1.5 miles north of Carrington, to the approximately 2.5 mile Bowdon (the "Subject Line"). The Subject Line traverses through United States Counties 58486, 58418 and 58421 in North Dakota. The abandonment proceeding will be docketed as STB Case No. 2004-10X. The Board's Office of Environmental Analysis

("SEA") will generally prepare an Environmental Assessment ("EA"), which will be available 25 days after the filing of the petition for exemption. Comments on environmental issues should be filed no later than 30 days after the EA becomes available. Interested persons may obtain a copy of the EA and will be addressed in a Board decision or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, Washington, DC 20423, or by calling SEA at (202) 655-1545. Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use conditions be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street NW, Washington, DC 20423 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on RRVW's representative at the address below [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at (202) 565-1592. Copies of any comments or requests for conditions should be served on RRVW's representative: Rose Michele Weinryb, Esq., Weiner Brodsky Goldman Kider PDC, 1300 19th Street, Fifth Floor, Washington, DC 20036-1609, (202) 628-2000. (8-7, 14, 21, 2004)

AFFIDAVIT OF PUBLICATION

State of North Dakota
County of Foster, ss.

Anne Vold

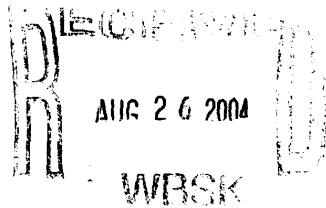
of said State and County being first duly sworn, on her oath says: That she/he is

the secretary of the Foster County Independent, a weekly newspaper of general circulation, printed and published in the City of Carrington, in said County and State, and the duly designated official newspaper of said Foster County, during the time hereinafter mentioned, and that the advertisement headed:

Notice of Intent to
Abandon Rail Service

a printed copy of which is hereunto annexed, was published in the regular and entire issue of said newspaper during the time of publication, and that the notice was published in the newspaper proper and not in a supplement, once a week 3 successive weeks, to-wit:

August 9, 2004
August 16, 2004
August 23, 2004



61 lines x 1.77

Publication fees \$ 107.97

Notary fees \$ _____

Total \$ _____

Sworn and subscribed to

Anne Vold

before me this 24 day of August A. D. 2004
PATRICIA A. STOCK
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires NOV. 5, 2004
Patricia A. Stock

Notice

**NOTICE OF INTENT TO
ABANDON RAIL SERVICE**
The Red River Valley & Western Railroad Company ("RRVW") gives notice that on or after September 15, 2004, it intends to file with the Surface Transportation Board ("Board"), Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F, *Exempt Abandonments* permitting the abandonment of an approximately 27.76-mile line of railroad from approximately railroad milepost 1.4, in or near Carrington, to the end of the track at approximately railroad milepost 29.16, in or near Bismarck (the "Subject Line"). The Subject Line traverses through United States Postal Service Zip Codes 58486, 58418 and 58421 in Foster and Wells Counties, North Dakota. The abandonment proceeding will be docketed as No. AB-391 (Sub-No. 10X).

The Board's Section of Environmental Analysis ("SEA") will generally prepare an Environmental Assessment ("EA"), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, Washington DC 20423, or by calling SEA at (202) 665-1545.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street NW, Washington DC 20423 (See 49 CFR 1104.1(a) and 1104.3(a)), and one copy must be served on RRVW's representative at the address below (See 49 CFR 1104.12(a)). Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at (202) 665-1592. Copies of any comments or requests for conditions should be served on RRVW's representative: Rose-Michele Wehrly, Esq., Weiner Rrodsky Sidman Rider PC, 1300 19th Street, Fifth Floor, Washington DC 20036-1609, (202) 628-2000.

(Publish August 9, 16 & 23, 2004)

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**OCT 14 2004
RECEIVED**

Docket No. AB-391 (Sub-No. 10X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
– ABANDONMENT EXEMPTION –
FOSTER AND WELLS COUNTIES, NORTH DAKOTA**

EXHIBIT G

**CERTIFICATE OF SERVICE
OF JULY 29, 2004, LETTER**

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2004, notice of the proposed abandonment was deposited
in the mail for sending by first-class mail, postage prepaid to the following parties:

Department of Commerce
Division of Community Services
Attn: Paul Govig, Director
1600 East Century Avenue
Suite 2
Bismarck, ND 58502

U.S. Environmental Protection Agency
Region No. 8
Attn: Regional Administrator, Robbie Roberts
999 18th Street, Suite 300; RA
Denver, CO 80202-2466

US Army Corps of Engineers
Omaha District
Regulatory Branch
12565 West Center Road
Room 151
Omaha, NE 68144-3869

State Single Point of Contact
Governor's Office
600 East Boulevard Avenue
Department 101
Bismarck, ND 58505-0001

Department of Interior
National Park Service
National Center Recreation and Conservation
1849 C Street, NW
ORG Code 2220
Washington, D.C. 20240

North Dakota Department of Health
Environmental Health Section
Attn: Chief David Glatt
P.O. Box 5520
1200 Missouri Avenue
Bismarck, ND 58506-5520

US Fish and Wildlife Service, Region 6
Attn: Regional Director, Ralph O. Morgenweck
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

US Army Corps of Engineers
St. Paul District
District Engineer
190 5th Street East
St. Paul, MN 55101-1638

US Army Corps of Engineers
North Dakota Regulatory Office
Attn: Dan Zinarosti, Project Manager
1513 South 12th Street
Bismarck, N.D. 58504

Natural Resources Conservation Service (NRCS)
Attn: J.R. Flores, State Conservationist
220 E. Rosser Avenue
P.O. Box 1458
Bismarck, ND 58502-1458

Frank Maida
Chief, Spatial Reference System Division
Department of Commerce - NOAA
National Geodetic Survey; N/NGS12
1315 East West Highway
Silver Spring, MD 20910-3282

North Dakota Public Service Commission
Attn: Illona Jeffcoat-Sacco, Executive Secretary
State Capitol
600 East Boulevard Ave.
Department 408
Bismarck, ND 58505-0480

Department of Interior
National Park Service
Land Resource Division
Attn: Bill Shaddox
1849 C Street, NW
Washington, D.C. 20240

North Dakota Department of Agriculture
Attn: Roger Johnson, Commissioner
600 East Boulevard Avenue
Department 602
Bismarck, ND 58505-0020

U.S. Fish and Wildlife Service
Attn: Jeffrey Towner, Field Supervisor
3425 Miriam Avenue
Bismarck, ND 58501

ND State Water Commission
Attn: Dale Frink, State Engineer
900 East Boulevard Avenue
Bismarck, ND 58505

Historical Society of North Dakota
Heritage Center
Attn: Duane Klinner, Project Review Coordinator
612 East Boulevard Avenue
Bismarck, ND 58505

MTMC-TEA
Railroads for National Defense Program
Attn: Robert Korpanty
720 Thimble Shoals Boulevard
Suite 130
Newport News, VA 23606-2574

U.S. Department of Agriculture
Attn: Dan Bosworth, Chief of Forest Service
201 14th Street, S.W., Room 4 North West
Washington, D.C. 20090


USDA-NRCS-NPRO
Federal Building
Attn: Richard Van Klaveren
Regional Conservationist
100 Centennial Mall North
Lincoln, NE 68508

ND Department of Transportation
Attn: Planning Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

Foster County Commissioners
1000 5th Street North
Carrington, ND 58421

Wells County Commissioners
P.O. Box 37
Fessenden, ND 58438

National Park Service
Midwest Region
Attn: Regional Director
601 River Front Drive
Omaha, NE 68102-4226


Rose-Michele Weinryb, Esq.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 10X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
– ABANDONMENT EXEMPTION –
FOSTER AND WELLS COUNTIES, NORTH DAKOTA**

EXHIBIT H

**CERTIFICATE OF SERVICE
OF
ENVIRONMENTAL AND HISTORIC REPORT**

4
OCT 14 2004
RECEIVED

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Environmental and Historic Report was served on
September 14, 2004, by first-class mail, postage pre-paid, on the following parties:

Department of Commerce
Division of Community Services
Attn: Paul Govig, Director
1600 East Century Avenue
Suite 2
Bismarck, ND 58502

U.S. Environmental Protection Agency
Region No. 8
Attn: Regional Administrator, Robbie Roberts
999 18th Street, Suite 300; RA
Denver, CO 80202-2466

US Army Corps of Engineers
Omaha District
Regulatory Branch
12565 West Center Road
Room 151
Omaha, NE 68144-3869

State Single Point of Contact
Governor's Office
600 East Boulevard Avenue
Department 101
Bismarck, ND 58505-0001

Department of Interior
National Park Service
National Center Recreation and Conservation
1849 C Street, NW
ORG Code 2220
Washington, D.C. 20240

North Dakota Department of Health
Environmental Health Section
Attn: Chief David Glatt
P.O. Box 5520
1200 Missouri Avenue
Bismarck, ND 58506-5520

US Fish and Wildlife Service, Region 6
Attn: Regional Director, Ralph O. Morgenweck
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

US Army Corps of Engineers
St. Paul District
District Engineer
190 5th Street East
St. Paul, MN 55101-1638

US Army Corps of Engineers
North Dakota Regulatory Office
Attn: Dan Zinarosti, Project Manager
1513 South 12th Street
Bismarck, N.D. 58504

Natural Resources Conservation Service (NRCS)
Attn: J.R. Flores, State Conservationist
220 E. Rosser Avenue
P.O. Box 1458
Bismarck, ND 58502-1458

Frank Maida
Chief, Spatial Reference System Division
Department of Commerce - NOAA
National Geodetic Survey; N/NGS12
1315 East West Highway
Silver Spring, MD 20910-3282

North Dakota Public Service Commission
Attn: Illona Jeffcoat-Sacco, Executive Secretary
State Capitol
600 East Boulevard Ave.
Department 408
Bismarck, ND 58505-0480

Department of Interior
National Park Service
Land Resource Division
Attn: Bill Shaddox
1849 C Street, NW
Washington, D.C. 20240

North Dakota Department of Agriculture
Attn: Roger Johnson, Commissioner
600 East Boulevard Avenue
Department 602
Bismarck, ND 58505-0020

U.S. Fish and Wildlife Service
Attn: Jeffrey Towner, Field Supervisor
3425 Miriam Avenue
Bismarck, ND 58501

ND State Water Commission
Attn: Dale Frink, State Engineer
900 East Boulevard Avenue
Bismarck, ND 58505

Historical Society of North Dakota
Heritage Center
Attn: Duane Klinner, Project Review Coordinator
612 East Boulevard Avenue
Bismarck, ND 58505

MTMC-TEA
Railroads for National Defense Program
Attn: Robert Korpanty
720 Thimble Shoals Boulevard
Suite 130
Newport News, VA 23606-2574

U.S. Department of Agriculture
Attn: Dan Bosworth, Chief of Forest Service
201 14th Street, S.W., Room 4 North West
Washington, D.C. 20090

USDA-NRCS-NPRO
Federal Building
Attn: Richard Van Klaveren
Regional Conservationist
100 Centennial Mall North
Lincoln, NE 68508

ND Department of Transportation
Attn: Planning Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

Foster County Commissioners
1000 5th Street North
Carrington, ND 58421

Wells County Commissioners
P.O. Box 37
Fessenden, ND 58438

National Park Service
Midwest Region
Attn: Regional Director
601 River Front Drive
Omaha, NE 68102-4226

A handwritten signature in cursive script, appearing to read "Rose-Michele Weinryb", written over a horizontal line.

Rose-Michele Weinryb, Esq.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

NOV 14 2004
RECEIVED

Docket No. AB-391 (Sub-No. 10X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
– ABANDONMENT EXEMPTION –
FOSTER AND WELLS COUNTIES, NORTH DAKOTA**

EXHIBIT I

**CERTIFICATE OF SERVICE
OF VERIFIED NOTICE OF EXEMPTION**

CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2004, this Verified Notice of Exemption was deposited in the mail for sending by first-class mail, postage prepaid to the following parties:

Department of Commerce
Division of Community Services
Attn: Paul Govig, Director
1600 East Century Avenue
Suite 2
Bismarck, ND 58502

U.S. Environmental Protection Agency
Region No. 8
Attn: Regional Administrator, Robbie
Roberts
999 18th Street, Suite 300; RA
Denver, CO 80202-2466

US Army Corps of Engineers
Omaha District
Regulatory Branch
12565 West Center Road
Room 151
Omaha, NE 68144-3869

State Single Point of Contact
Governor's Office
600 East Boulevard Avenue
Department 101
Bismarck, ND 58505-0001

Department of Interior
National Park Service
National Center Recreation and
Conservation
1849 C Street, NW
ORG Code 2220
Washington, D.C. 20240

North Dakota Department of Health
Environmental Health Section
Attn: Chief David Glatt
P.O. Box 5520
1200 Missouri Avenue
Bismarck, ND 58506-5520

US Fish and Wildlife Service, Region 6
Attn: Regional Director, Ralph O. Morgenweck
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

Stanley E. Tracey
Assistant District Counsel
Department of the Army
Corps of Engineers, Omaha District
106 South 15th Street
Omaha, Nebraska 68102-1618

US Army Corps of Engineers
North Dakota Regulatory Office
Attn: Dan Zinarosti, Project Manager
1513 South 12th Street
Bismarck, N.D. 58504

Natural Resources Conservation Service (NRCS)
Attn: J.R. Flores, State Conservationist
220 E. Rosser Avenue
P.O. Box 1458
Bismarck, ND 58502-1458

Frank Maida
Chief, Spatial Reference System Division
Department of Commerce - NOAA
National Geodetic Survey; N/NGS12
1315 East West Highway
Silver Spring, MD 20910-3282

Historical Society of North Dakota
Heritage Center
Attn: Duane Klinner, Project Review Coordinator
612 East Boulevard Avenue
Bismarck, ND 58505

North Dakota Public Service Commission
Attn: Illona Jeffcoat-Sacco, Executive
Secretary
State Capitol
600 East Boulevard Ave.
Department 408
Bismarck, ND 58505-0480

MTMC-TEA
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Department of Interior
National Park Service
Land Resource Division
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Washington, D.C. 20240

U.S. Department of Agriculture
Attn: Dan Bosworth, Chief of Forest Service
201 14th Street, S.W., Room 4 North West
Washington, D.C. 20090

North Dakota Department of Agriculture
Attn: Roger Johnson, Commissioner
600 East Boulevard Avenue
Department 602
Bismarck, ND 58505-0020

USDA-NRCS
Room 6001
Attn: Mr. Merlin Bartz
Regional Assistance Chief for the Central U.S.
14th & Independence Avenue, SW
Washington, D.C. 20250

U.S. Fish and Wildlife Service
Attn: Jeffrey Towner, Field Supervisor
3425 Miriam Avenue
Bismarck, ND 58501

ND Department of Transportation
Attn: Planning Division
608 East Boulevard Avenue
Bismarck, ND 58505-0700

ND State Water Commission
Attn: Dale Frink, State Engineer
900 East Boulevard Avenue
Bismarck, ND 58505

Foster County Commissioners
1000 5th Street North
Carrington, ND 58421

Wells County Commissioners
P.O. Box 37
Fessenden, ND 58438

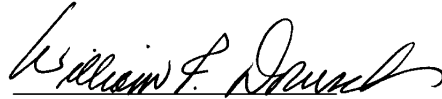
National Park Service
Midwest Region
Attn: Regional Director
601 River Front Drive
Omaha, NE 68102-4226


Rose-Michele Weinryb, Esq.

VERIFICATION

I, William F. Drusch, declare and verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Further, I certify that I am qualified and authorized to file this Verification.

A handwritten signature in cursive script, reading "William F. Drusch".

William F. Drusch
President
Red River Valley & Western
Railroad Company

Dated: October 14, 2004